

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
AMENDED INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Subsection (b)(91.1) of Section 7.50
Title 14, California Code of Regulations
Re: Klamath River Sport Fishing Regulations

- I. Date of Initial Statement of Reasons: January, 2004
Date of Amended Initial Statement of Reasons: February 26, 2004
- II. Dates and Locations of Scheduled Hearings:
- (a) Notice Hearing: Date: February 6, 2004
Location: Long Beach
- (b) Discussion Hearing: Date: March 5, 2004
Location: Redding
- (c) Discussion Hearing: Date: April 2, 2004
Location: Sacramento
- (d) Adoption Hearing: Date: May 6, 2004
Location: San Diego
- III. Description of Regulatory Action:
- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Hook Size Change for Anadromous Waters of the Klamath River System: Current regulations in subsection (b)(91.1)(A)2. of Section 7.50 define Special Fishing Methods Restrictions for all anadromous waters of the Klamath River below Iron Gate Dam. These requirements restrict the use of single barbless hooks having a gap between the point and shank greater than 5/8 inch; or, any multiple barbless hooks having a gap between the point and shank greater than 1/2 inch. For clarification and in the interest of consistency, the Department is recommending language from Section 2.10, Hook and Weight Restrictions be incorporated in subsection (b)(91.1)(A)2. of Section 7.50. This recommendation would define “Gap” and “Shank”, restrict the use of any multiple hooks with a gap greater than 3/4 inch or any hook with a shank longer than 2 inches, and restrict the use of any multiple hook or more than one single hook on non-buoyant lures exceeding one ounce. This recommendation will make fishing gear restrictions for all anadromous waters of the Klamath River system consistent with statewide restrictions for river and streams.

Quota Adjustment: Under current regulations in subsection (b)(91.1)(C), the allowable Chinook salmon harvest in the Klamath River system is based on spawning run-size predictions and spawning escapement goals. The harvest and the distribution of the catch are regulated by seasons, daily and weekly bag and possession limits, and area quotas and allocations. Salmonids from the Klamath River basin are managed through a cooperative system of state, federal, and tribal management agencies. Regulations developed through this system are designed to meet natural and hatchery escapement needs for these stocks, while providing equitable harvest opportunities to ocean (sport and commercial) and river (sport and tribal) users. The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of sport and commercial ocean fisheries in the fishery management zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean fishing regulations by the National Marine Fisheries Service. The Department and the Commission adopt regulations for state waters (inside three miles) that are consistent with federal regulations.

The Klamath River system supports a significant Native American subsistence fishery in addition to the other fisheries. The Klamath River fall-run Chinook salmon harvest allocation between tribal and non-tribal fisheries is based on court decisions and agreement of river fisheries representatives (tribal and non-tribal) under the auspices of the Klamath Fishery Management Council. Tribal fishing regulations are promulgated by the Hoopa and Yurok tribes. Sport fishing regulations are adopted by the Commission. Overall harvest and spawning escapement levels are established and published in the "Amendments to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coast of Washington, Oregon, and California Commencing in 1978 (FMP)," adopted by the PFMC for the U.S. Department of Commerce.

Annual adjustment of the quota is necessary to meet natural and hatchery escapement needs for Klamath River fall-run Chinook salmon stocks, while providing equitable harvest opportunities for ocean (sport and commercial) and river (sport and tribal) users. The total river system recreational harvest of fall-run Chinook salmon is currently regulated by a quota. In 2003, the share, or impact quota, for the Klamath River basin allowable sport catch was 10,800 adult fish (26 percent of the total allowable harvest by non-tribal fisheries, including ocean-commercial, ocean-recreational and recreational-river fisheries).

Projections of the abundance of adult Klamath River fall-run Chinook salmon in the 2004 season are not yet available from the PFMC. However, preliminary examination of data available to Department staff suggests that the predicted 2004 adult fall-run Chinook salmon run will be greater than the 2003 run. Consequently, the Department is suggesting that the Commission consider a 2004 quota for the river-recreational fishery larger than that of last year, and for notice requirements, within a range of 5,000-21,000 adult Chinook salmon. The Commission also will consider modifying the share of the

allowable catch allocated to the river recreational fishery (which was 26 percent in 2003). Adjustment of this share is included in the recommended 5,000-21,000 range of the quota. As in prior years, the river recreational fishing quota would be split evenly between fisheries above and below the boundary separating the Klamath River system sub-quota areas (see proposed boundary change below).

Change in Sub-Quota Boundary: The Department is recommending that the physical landmark designating the lower and upper sub-quota area for the Klamath River Basin be changed from Coon Creek Falls to the Highway 96 bridge at Weitchpec. The boundary is used to divide evenly the impact quota for adult fall-run Chinook salmon harvest into two sub-quota areas within the Klamath River Basin. This change would add approximately 6 miles to the definition of the lower Klamath River while reducing the upper Klamath River by the same mileage. There are two Coon Creek tributaries to the Klamath River. One enters the Klamath River 6 miles below the Highway 96 bridge at Weitchpec and the second enters the Klamath River approximately 8 miles upstream from the Highway 96 bridge. The Department receives several inquiries from anglers requesting additional information or clarification pertaining to which the Coon Creek regulations refer. The Highway 96 bridge at Weitchpec is more identifiable and eliminates the confusion between the two Coon Creek tributaries. All regulatory language referencing Coon Creek Falls will be changed to the Highway 96 bridge at Weitchpec. There will be no harvest impacts to anglers since the Klamath River Basin impact quota for fall-run Chinook salmon does not change.

Closures to Modify Allocations: The Department believes that the regulations should, if possible, allow fishing opportunities for adult fall-run Chinook salmon throughout the entire Klamath River Basin. Currently, the annual recreational impact quota is split evenly, with 50 percent of the quota allocated to the Klamath River below the Highway 96 bridge at Weitchpec (proposed) and 50 percent to the remainder of the Klamath River Basin above the Highway 96 bridge at Weitchpec, including the Trinity River. Proposed regulations define three sub-quota areas above the Highway 96 bridge at Weitchpec. The three quotas ensure equitable harvest of adult fall-run Chinook in the upper Klamath and Trinity rivers.

The 2004 quota to be recommended by the PFMC is not currently known; however, it is expected to be larger than that established for the 2003 season. All closures for adult Chinook salmon will be designed to maximize and distribute the harvest of adult fall-run Chinook salmon while managing the fishery within the impact quota.

The current quota system requires the Department to monitor angler harvest of adult Chinook in each sub-quota area on a real-time basis. Due to likely funding and personnel reductions, the Department will be unable to deploy adequate personnel to conduct harvest monitoring in the upper Klamath River above the Highway 96 bridge at

Weitchpec and the Trinity River above Willow Creek for the 2004 season. Instead, the following recommendations are based on data analysis and management experiences from previous years that estimate harvest in the upper reaches of the Klamath River Basin relative to known harvest in the lower Klamath River.

1. Klamath River Main Stem - Allowable Fishing Season from the Highway 96 Bridge at Weitchpec to 3,500 feet below Iron Gate Dam: The Department has reviewed all available Klamath Chinook harvest and run-timing data for the Klamath River from several previous years. Based on this review, the Department has developed a Harvest Predictor Model (HPM) which incorporates creel data from the Klamath River from Iron Gate Dam downstream to the confluence with the Pacific Ocean. The HPM is driven by the positive relationship between the number of fall-run Chinook salmon harvested in the lower Klamath River and the number of fish harvested in the upper river. The HPM will allow the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

2. Upper Trinity River Main Stem - Allowable Fishing Season from Old Lewiston Bridge to the Highway 299 West Bridge at Cedar Flat: The Department has reviewed all available Trinity River Chinook harvest and run-timing data for this area. Based on this review, the Department has developed a HPM which incorporates creel data from the Klamath River from Iron Gate Dam downstream to the confluence with the Pacific Ocean. The HPM is driven by the positive relationship between the number of fall-run Chinook salmon harvested in the lower Klamath River and the number of fish harvested in the upper Trinity River. The HPM will allow the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

3. Lower Trinity River Main Stem - Allowable Fishing Season from Hawkins Bar Bridge (Road to Denny) Downstream to the Mouth of the Trinity: The Department has reviewed all available Trinity River Chinook harvest and run-timing data for this area. Based on this review, the Department has developed a HPM which incorporates creel data from the Klamath River from Iron Gate Dam downstream to the confluence with the Pacific Ocean and the Trinity River from Lewiston Dam downstream to the confluence with the Klamath River. The HPM is driven by the positive relationship between the number of fall-run Chinook salmon harvested in the lower Klamath River and the number of fish harvested in the lower Trinity River. The HPM will allow the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

Increase in Daily Bag Limit, Weekly Bag Limit and Possession Limit: The 2004 quota to be recommended by the PPMC is not currently known; however, it is expected to be higher than that established for the 2003 season. Consequently, the Department is recommending an increase in daily bag, weekly bag, and possession limits for the 2004 Klamath River sport fishery.

The Department is recommending that the Commission consider the following Klamath River recreational fishery changes to reflect an increase in the Klamath River basin impact quota:

1. **Increase in Daily Bag Limit:** The daily bag limit, as specified in the current regulation, is three king salmon (Chinook salmon), but no more than one adult king salmon over 22 inches total length, and one hatchery trout or hatchery steelhead or brown trout. The Department is proposing that the Commission modify the king salmon daily bag limit to a total of three king salmon, but no more than two king salmon over 22 inches total length and one hatchery trout, or one hatchery steelhead or one brown trout.
2. **Increase the Weekly Bag Limit:** The current regulation specifies that no more than four king salmon over 22 inches total length may be retained in any seven consecutive days. The Department is proposing that the Commission increase the weekly bag limit to six king salmon over 22 inches total length in any seven consecutive days.
3. **Modify Possession Limit:** The current regulation specifies that no more than 12 king salmon may be possessed, of which no more than four may be over 22 inches total length. The Department is proposing that the Commission modify the possession limit to 12 king salmon may be possessed, of which no more than six may be over 22 inches total length.

Special Wild Steelhead Harvest Area: Current regulations prohibit the harvest of wild steelhead in the Klamath-Trinity River system. During the mid-1990's, declines in wild steelhead populations were noted within the Klamath River system and regulations were imposed to limit the harvest of wild steelhead. Beginning in 1997, all hatchery steelhead were marked with an adipose fin-clip resulting in the ability to distinguish wild steelhead from hatchery-origin steelhead by the presence or absence of the adipose fin (wild steelhead had an intact adipose fin). During the past three years (2001-2003) various forms of evidence suggest that wild steelhead populations in the Klamath River have increased substantially since the mid-1990s. An increase in steelhead numbers has been noted in adult summer steelhead surveys, and anecdotal information received from anglers, guides and Department personnel has noted an increase in steelhead observed. In addition, creel surveys have revealed the proportion of wild steelhead in the main stem Klamath River is 75 percent versus 25 percent for hatchery steelhead. The reverse is the case in the Trinity River (75 percent hatchery versus 25 percent wild).

Based on increases in wild steelhead populations in the main stem of the upper Klamath River, the Department is proposing to allow a limited harvest of wild steelhead in the upper most 11-mile reach of the Klamath River. This proposal will allow anglers to harvest one adult wild steelhead per day, but no more than 3 per season, in the Klamath River from 3,500 feet below Iron Gate Dam to the Interstate 5 Bridge during a four-month period from November 1 through February 28. All other angling regulations pertaining to steelhead in the Klamath River and its tributaries will remain unchanged. The purpose of this proposal is to provide anglers with additional steelhead fishing opportunities.

The proposal to allow a limited harvest of wild steelhead in the upper most reach of the Klamath River is being proposed on an experimental basis. Harvest monitoring will be conducted using the following methods:

1. Angler survey boxes will be established at three popular locations where the majority of anglers exit the upper reach of the Klamath River.
2. Information collected from Steelhead Report Cards will be used to monitor harvest and angling effort.
3. Log books from licensed fishing guides will be evaluated for harvest information.

If the Department determines that the proposed regulation causes an excessive harvest of wild steelhead or this regulation otherwise adversely impacts the wild steelhead populations in the Klamath River or its tributaries, wild steelhead harvest will be prohibited.

Options to Open the New River to Angling: The New River is a tributary to the Trinity River located near the town of Denny. The New River supports runs of fall and spring-run Chinook salmon, coho, and both summer and winter steelhead. In 1999, the Department closed the majority of Klamath/Trinity basin tributaries, including the New River to all angling. These closures were designed to protect steelhead in the Evolutionarily Significant Unit (ESU) Klamath Mountain Province (KMP), which at the time were considered a candidate for listing under the federal Endangered Species Act. Since then, NOAA Fisheries has concluded that the KMP steelhead population does not warrant listing. The Department, however, continues to place summer steelhead in the Klamath/Trinity basin as a species of special concern.

The Department supports maintaining the closure of the New River and other Trinity River summer steelhead holding tributaries. Plentiful angling opportunities exist to fish for wild summer steelhead in their migratory corridor of the main-stem Trinity River downstream of their summer holding habitat. This is consistent with the Department's

policy to allow fishing for sensitive stocks only in migratory areas and not in holding areas of naturally flowing rivers.

The Department recognizes that substantial increases in returns of summer steelhead have occurred on the New River over the past three years, but is still concerned with highly variable returns between years and lack of the ability by the Department to conduct necessary angler-impact monitoring.

The Commission has received written and oral testimony from members of the public recommending New River be opened to angling. At the December 5, 2003 Commission meeting, the Department was asked to develop options which would allow limited angling opportunities in the New River.

Summer steelhead enter the New River starting in April and hold during the summer in deep pools until the first rains in late fall. A 1991 study found that many summer steelhead within the main-stem New River once within a pool remain in that pool for up to seven months. These fish are extremely vulnerable and could possibly be stressed repeatedly if angling were allowed throughout the entire season. Subsequently, the Department has developed two options which would promote summer steelhead conservation while providing some amount of angling opportunities in the New River.

New River Option 1:

Allow fishing in the main-stem New River from the mouth upstream to the confluence of Slide and Virgin Creeks during the Saturday preceding Memorial Day to July 15, and from September 15 to November 15. Only artificial lures with barbless hooks, with a zero bag limit would apply.

This option has been proposed by CalTrout and several local landowners in response to an apparent increase in summer-run steelhead returns over the previous three years as documented by the annual USFS/DFG snorkel survey. Numbers over the past three decades have ranged between 300-800 adult fish, while last year's snorkel survey documented 2,107 adult summer steelhead were present. It is important to note that returns of adult summer steelhead into the New River are highly variable between years.

The Department has several concerns with this option. Mainly, it fails to adequately protect juvenile out-migrants and adult summer steelhead. The earlier of the two open season periods proposed by Option 1 (Saturday after Memorial Day – July 15) does not afford the protection needed for out-migrating smolts, which peak in May and continue out-migrating through July. In addition, studies have documented that mortality due to stress associated with catch-and-release fishing increase as water temperatures approach 70 degrees F. Water quality studies on New River have documented water temperatures meeting or exceeding 70 degrees F during early June and extending throughout the summer. The Department does not support this option due to the

potential mortality of out-migrating smolts and the increased catch-and-release mortality to adult summer steelhead associated with elevated water temperatures.

New River Option 2:

Allow fishing in the main-stem New River from the mouth to immediately downstream of the confluence pool of Slide and Virgin Creeks from September 15 through November 15. Only artificial lures with barbless hooks, with a zero bag limit would apply.

Option 2 is a possible compromise between proposed Option 1 and the current status quo (complete closure to fishing). Option 2 would not allow angling in the earlier part of the season (Saturday preceding Memorial Day through July 15) in order to protect summer steelhead and downstream migrating smolts.

Option 2 also proposes a slightly different open area than Option 1. Historically, the confluence pool of Virgin and Slide Creek with the New River was never open to angling. Option 2 proposes opening the area downstream of the confluence pool, but not including the confluence pool. This pool requires additional protection because of its known propensity to congregate large numbers of steelhead. The entire main-stem of the New River would be open to angling, while protecting those fish that are holding in the upstream most pool in the main-stem system.

New River Option 3:

Allow fishing in the main-stem New River from the mouth upstream to the confluence of the East Fork from September 15 through November 15. Gear would be restricted to artificial lures with barbless hooks (no bait), and a zero bag would apply.

The upper most reaches of the New River (upstream of the confluence of the East Fork) contain approximately 30 percent of the adult summer steelhead holding pools. This area is extremely remote and very difficult to monitor. Because of the uncertainty and the potential negative impacts to adult summer steelhead that may occur from excessive angling, an option which maintains some protected areas would be beneficial. The Department considers this option the most conservative of the three options presented but does not afford the maximum protection for summer steelhead found in current regulations. This option would be consistent with the regulations that were in place prior to 1999 when the FGC adopted a complete angling closure on New River.

Minor editorial changes are also being made for clarification to correct cross references in subsection 7.50 (b)(195).

- (a) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code.

Reference: Sections 200, 205, 206, 215 and 316.5, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change: None.

- (d) Identification of Reports or Documents Supporting Regulation Change:
None.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

Dates and Locations of Scheduled Hearings:

Notice Hearing: Date: February 6, 2004
Location: Long Beach

Discussion Hearings: Date: March 5, 2004
Location: Redding

Date: April 2, 2004
Location: Sacramento

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

Alternative No. 1.

Allowable Fishing Seasons above the Highway 96 bridge at Weitchpec: The Department is reviewing all available data and meeting with the public to develop seasons which will equitably distribute the quota of adult Chinook salmon among all in-river non-tribal user groups throughout the Klamath River basin above the Highway 96 bridge at Weitchpec. The development of seasons will help control Chinook harvest and ensure that the total impact quota for the Klamath River basin is not exceeded. This alternative can not guarantee that anglers will neither fall short of utilizing the quota or that they will exceed it.

Alternative No. 2.

Generally More Liberal Regulations (Bag Limits, Possession Limits and Fishing Methods) Than Those Proposed: More liberal regulations would be less desirable than those proposed because they could create risk of an intense fishery reaching or exceeding the quota in a very short time. Reaching the quota in a very short time could be damaging to the local economy. Exceeding the allowable harvest could be damaging to the Klamath River basin Chinook salmon resource.

- (b) No Change Alternative with the exception of III (a) above **Change in Sub-Quota Boundary:** Maintain sub-basin monitoring and quotas. Current regulations divide equally the impact quota above the Highway 96 bridge at Weitchpec and the Trinity River. The area is further divided into three sub quotas; 1) the Highway 96 bridge at Weitchpec to 3,500 feet below Iron Gate Dam (17.0%), 2) the Trinity River from the confluence with the Klamath to Hawkins Bar (16.5%) and 3) the Trinity River from Cedar Flat to Old Lewiston Bridge (16.5%). The current harvest distribution requires the Department to estimate angler harvest of adult Chinook on a real-time basis. Due to budgetary constraints, the Department does not anticipate the ability to conduct real-time monitoring on Klamath River above the Highway 96 bridge at Weitchpec and the Trinity River upstream from the town of Willow Creek.
- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businessmen to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in

other states. The preservation of Klamath River salmon stocks is necessary for the success of lower and upper Klamath River businesses which provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on Private Persons or Businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Informative Digest/Policy Statement Overview

Hook Size Change for Anadromous Waters of the Klamath River System: Current regulations in subsection (b)(91.1)(A)2. of Section 7.50 define Special Fishing Methods Restrictions for all anadromous waters of the Klamath River below Iron Gate Dam. These requirements restrict the use of single barbless hooks having a gap between the point and shank greater than 5/8 inch; or, any multiple barbless hooks having a gap between the point and shank greater than 1/2 inch. For clarification and in the interest of consistency, the Department is recommending language from Section 2.10, Hook and Weight Restrictions be substituted to subsection (b)(91.1)(A)2. of Section 7.50. This recommendation would define “Gap” and “Shank”, restrict the use of any multiple hooks with a gap greater than 3/4 inch or any hook with a shank longer than 2 inches, and restrict the use of any multiple hook or more than one single hook on non-buoyant lures exceeding one ounce. This recommendation will make fishing gear restrictions for all anadromous waters of the Klamath River system consistent with statewide restrictions for river and streams.

Quota Adjustment: Under current regulations in subsection (b)(91.1)(C), the allowable Chinook salmon harvest in the Klamath River system is based on spawning run-size predictions and spawning escapement goals. The harvest and the distribution of the catch are regulated by seasons, daily and weekly bag and possession limits, and area quotas and allocations.

Annual adjustment of the quota is necessary to meet natural and hatchery escapement needs for Klamath River fall-run Chinook salmon stocks, while providing equitable harvest opportunities for ocean (sport and commercial) and river (sport and tribal) users. The total river system recreational harvest of fall-run Chinook salmon is currently regulated by a quota. In 2003, the share, or impact quota, for the Klamath River basin allowable sport catch was 10,800 adult fish (26 percent of the total allowable harvest by non-tribal fisheries, including ocean-commercial, ocean-recreational and recreational-river fisheries).

Projections of the abundance of adult Klamath River fall-run Chinook salmon in the 2004 season are not yet available from the PPMC. However, preliminary examination of data available to Department staff suggests that the predicted 2004 adult fall-run Chinook salmon run will be greater than the 2003 run. Consequently, the Department is suggesting that the Commission consider a 2004 quota for the river-recreational fishery larger than that of last year, and for notice requirements, within a range of 5,000-21,000 adult Chinook salmon. The Commission also will consider modifying the share of the allowable catch allocated to the river recreational fishery (which was 26 percent in 2003). Adjustment of this share is included in the recommended 5,000-21,000 range of the quota. As in prior years, the river recreational fishing quota would be split evenly between fisheries above and below the boundary separating the Klamath River system sub-quota areas (see proposed boundary change below).

Change in Sub-Quota Boundary: The Department is recommending that the physical landmark designating the lower and upper sub-quota area for the Klamath River Basin be changed from Coon Creek Falls to the Highway 96 bridge at Weitchpec. The boundary is used to divide evenly the impact quota for adult fall-run Chinook salmon harvest into two sub-quota areas within the Klamath River Basin. There are two Coon Creek tributaries to the Klamath River. One enters the Klamath River 6 miles below the Highway 96 bridge at Weitchpec and the second enters the Klamath River approximately 8 miles upstream from the Highway 96 bridge. The Department receives several inquiries from anglers requesting additional information or clarification pertaining to which Coon Creek the regulations refer to. The Highway 96 bridge at Weitchpec is more identifiable and eliminates the confusion between the two Coon Creek tributaries. All regulatory language referencing Coon Creek Falls shall be changed to the Highway 96 bridge at Weitchpec. There will be no harvest impacts to anglers since the Klamath River Basin impact quota for fall-run Chinook salmon does not change.

Closures to Modify Allocations: Currently, the annual recreational impact quota is split evenly, with 50 percent of the quota allocated to the Klamath River below the Highway 96 bridge at Weitchpec (proposed boundary) and 50 percent to the remainder of the Klamath River Basin above the Highway 96 bridge at Weitchpec, including the Trinity River. Proposed regulations define three sub-quota areas above the Highway 96 bridge at Weitchpec. The three quotas ensure equitable harvest of adult fall-run Chinook in the upper Klamath and Trinity rivers.

The 2004 quota to be recommended by the PFMC is not currently known; however, it is expected to be larger than that established for the 2003 season. All closures for adult Chinook salmon will be designed to maximize and distribute the harvest of adult fall-run Chinook salmon while managing the fishery within the impact quota.

The current quota system requires the Department to monitor angler harvest of adult Chinook in each sub-quota area on a real-time basis. Due to likely funding and personnel reductions, the Department will be unable to deploy adequate personnel to conduct harvest monitoring in the upper Klamath River above the Highway 96 bridge at Weitchpec and the Trinity River above Willow Creek for the 2004 season. Instead, the following recommendations are based on data analysis and management experiences from previous years that estimate harvest in the upper reaches of the Klamath River Basin relative to known harvest in the lower Klamath River.

1. Klamath River Main Stem - Allowable Fishing Season from the Highway 96 bridge at Weitchpec to 3,500 feet below Iron Gate Dam: The Department has reviewed all available Klamath Chinook harvest and run-timing data for the Klamath River from several previous years. Based on this review, the Department has developed a Harvest Predictor Model (HPM) which incorporates creel data from the Klamath River from Iron Gate Dam downstream

to the confluence with the Pacific Ocean. The HPM is driven by the positive relationship between the number of fall-run Chinook salmon harvested in the lower Klamath River and the number of fish harvested in the upper river. The HPM will allow the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

2. Upper Trinity River Main Stem - Allowable Fishing Season from Old Lewiston Bridge to the Highway 299 West Bridge at Cedar Flat: The Department has reviewed all available Trinity River Chinook harvest and run-timing data for this area. Based on this review, the Department has developed a HPM which incorporates creel data from the Klamath River from Iron Gate Dam downstream to the confluence with the Pacific Ocean. The HPM is driven by the positive relationship between the number of fall-run Chinook salmon harvested in the lower Klamath River and the number of fish harvested in the upper Trinity River. The HPM will allow the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

3. Lower Trinity River Main Stem - Allowable Fishing Season from Hawkins Bar Bridge (Road to Denny) Downstream to the Mouth of the Trinity: The Department has reviewed all available Trinity River Chinook harvest and run-timing data for this area. Based on this review, the Department has developed a HPM which incorporates creel data from the Klamath River from Iron Gate Dam downstream to the confluence with the Pacific Ocean and the Trinity River from Lewiston Dam downstream to the confluence with the Klamath River. The HPM is driven by the positive relationship between the number of fall-run Chinook salmon harvested in the lower Klamath River and the number of fish harvested in the lower Trinity River. The HPM will allow the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

Increase in Daily Bag Limit, Weekly Bag Limit and Possession Limit: The 2004 quota to be recommended by the PFMC is not currently known; however, it is expected to be higher than that established for the 2003 season. Consequently, the Department is recommending an increase in daily bag, weekly bag, and possession limits for the 2004 Klamath River sport fishery.

The Department is recommending that the Commission consider the following Klamath River recreational fishery changes to reflect an increase in the Klamath River basin impact quota:

1. Increase in Daily Bag Limit: The daily bag limit, as specified in the current regulation, is three king salmon (Chinook salmon), but no more than one adult king salmon over 22 inches total length, and one hatchery trout or hatchery steelhead or brown trout. The

Department is proposing that the Commission modify the king salmon daily bag limit to a total of three king salmon, but no more than two king salmon over 22 inches total length and one hatchery trout, or one hatchery steelhead or one brown trout.

2. Increase the Weekly Bag Limit: The current regulation specifies that no more than four king salmon over 22 inches total length may be retained in any seven consecutive days. The Department is proposing that the Commission increase the weekly bag limit to six king salmon over 22 inches total length in any seven consecutive days.

3. Modify Possession Limit: The current regulation specifies that no more than 12 king salmon may be possessed, of which no more than four may be over 22 inches total length. The Department is proposing that the Commission modify the possession limit to 12 king salmon may be possessed, of which no more than six may be over 22 inches total length.

Special Wild Steelhead Harvest Area: Current regulations prohibit the harvest of wild steelhead in the Klamath-Trinity River system. During the mid-1990's, declines in wild steelhead populations were noted within the Klamath River system and regulations were imposed to limit the harvest of wild steelhead. During the past three years (2001-2003) various forms of evidence suggest that wild steelhead populations in the Klamath River have increased substantially since the mid-1990s.

Based on increases in wild steelhead populations in the main stem of the upper Klamath River, the Department is proposing to allow a limited harvest of wild steelhead in the upper most 11-mile reach of the Klamath River. This proposal will allow anglers to harvest one adult wild steelhead per day, but no more than 3 per season, in the Klamath River from 3,500 feet below Iron Gate Dam to the Interstate 5 Bridge during a four-month period from November 1 through February 28. All other angling regulations pertaining to steelhead in the Klamath River and its tributaries will remain unchanged. The purpose of this proposal is to provide anglers with additional steelhead fishing opportunities.

Options to Open the New River to Angling: The Department supports maintaining the closure of the New River and other Trinity River summer steelhead holding tributaries. Plentiful angling opportunity exists to fish for wild summer steelhead in their migratory corridor of the main-stem Trinity river downstream of their summer holding habitat. This is consistent with the Department's policy to allow fishing for sensitive stocks only in migratory areas and not in holding areas.

The Department recognizes that substantial increases in returns of summer steelhead have occurred on the New River over the past three years, but is still concerned with highly variable returns between years and lack of adequate personnel resources to conduct necessary angler-impact monitoring.

The Commission has received written and oral testimony from members of the public recommending New River be opened to angling. At the December 5, 2003 Commission meeting, the Department was asked to develop options which would allow limited angling opportunities in the New River

Summer steelhead enter the New River starting in April and over summer in deep pools until the first rains in late fall. A 1991 study found that many summer steelhead within the main-stem New River once within a pool remain in that same pool for up to seven months. These fish are extremely vulnerable and could possibly be stressed repeatedly if angling were allowed throughout the entire season. Subsequently, the Department has developed two options which would promote summer steelhead conservation while providing some amount of angling opportunities in the New River.

New River Option 1:

Open the New River to fishing from the Saturday preceding Memorial Day to July 15 and September 15 to November 15, from the confluence of Slide and Virgin Creeks downstream to the confluence with the Trinity River. Only artificial lures with barbless hooks, with a zero bag limit would apply.

The Department has several concerns with this option. Mainly, it fails to adequately protect juvenile out-migrants and adult summer steelhead. The earlier of the two open season proposed by Option 1 (Saturday after Memorial Day – July 15) does not afford the protection needed for out-migrating smolts, which peak in May and continue out-migrating through July. In addition, studies have documented that mortality due to stress associated with catch and release fishing increase as water temperatures approach 70 degrees F. Water quality studies on New River have documented water temperatures meeting or exceeding 70 degrees F during early June and extending throughout the summer. The Department does not support this option due to the potential mortality of out-migrating smolts and the increased catch and release mortality to adult summer steelhead associated with elevated water temperatures.

New River Option 2:

Open the New River to fishing from September 15 through November 15, immediately downstream of the confluence pool of Slide and Virgin Creeks downstream to the confluence with the Trinity River. Only artificial lures with barbless hooks, with a zero bag limit would apply.

Option 2 is a possible compromise between proposed Option 1 and the current status quo (complete closure to fishing). Option 2 would not allow angling in the earlier part of the season (Saturday preceding Memorial Day through July 15) in order to protect summer steelhead and downstream migrating smolts. The Department is concerned that elevated water temperatures during June through July 15 would result in increased catch and release mortality of adult summer steelhead.

Option 2 also proposes a slightly different open area than Option 1. Historically, the confluence pool of Virgin and Slide Creek with the New River was never open to angling. Option 2 proposes opening the area downstream of the confluence pool, but not including the confluence pool. This pool requires additional protection necessary because of its propensity to congregate large numbers of steelhead. The entire main-stem of the New River would be open to angling, while protecting those fish that are holding in the upstream most pool in the main-stem system.

New River Option 3:

Allow fishing in the main-stem New River from the mouth upstream to the confluence of the East Fork from September 15 through November 15. Gear would be restricted to artificial lures with barbless hooks (no bait), and a zero bag would apply.

The upper most reaches of the New River (upstream of the confluence of the East Fork) contain approximately 30 percent of the adult summer steelhead holding pools. This area is extremely remote and very difficult to monitor. Because of the uncertainty and the potential negative impacts to adult summer steelhead that may occur from excessive angling, an option which maintains some protected areas would be beneficial. The Department considers this option the most conservative of the three options presented but does not afford the maximum protection for summer steelhead found in current regulations. This option would be consistent with the regulations that were in place prior to 1999 when the FGC adopted a complete angling closure on New River.